

mences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

- (1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or
- (2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under subchapter II, IV, or V warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.

(Added Pub. L. 100-238, title I, §124(a)(1)(B), Jan. 8, 1988, 101 Stat. 1755.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 8456 of this title prior to repeal by Pub. L. 100-238.

EFFECTIVE DATE

Section effective Jan. 1, 1987, and applicable with respect to benefits payable based on a death or disability occurring on or after that date, see section 124(c) of Pub. L. 100-238 set out as an Effective Date of 1988 Amendment note under section 8337 of this title.

§ 8465. Waiver, allotment, and assignment of benefits

(a) An individual entitled to an annuity payable from the Fund may decline to accept all or any part of the amount of the annuity by a waiver signed and filed with the Office. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

(b) An individual entitled to an annuity payable from the Fund may make allotments or assignments of amounts from the annuity for such purposes as the Office considers appropriate.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 575.)

§ 8466. Application for benefits

(a) No payment of benefits based on the service of an employee or Member shall be made from the Fund unless an application for payment of the benefits is received by the Office before the one hundred and fifteenth anniversary of the birth of the employee or Member.

(b) Notwithstanding subsection (a), after the death of an employee, Member, or annuitant, or former employee or Member, a benefit based on the service of such employee, Member, or annuitant, or former employee or Member, shall not be paid under subchapter II or IV of this chapter unless an application therefor is received by the Office within 30 years after the death or other event which establishes the entitlement to the benefit.

(c) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Office, is responsible for the care of the claimant, and the payment bars recovery by any other person.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 575.)

§ 8467. Court orders

(a) Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee, Member, or annuitant as defined in section 8331) based on service of that individual shall be paid (in whole or in part) by the Office or the Executive Director, as the case may be, to another person if and to the extent expressly provided for in the terms of—

(1) any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation; or

(2) any court order or other similar process in the nature of garnishment for the enforcement of a judgment rendered against such employee, Member, or annuitant, for physically, sexually, or emotionally abusing a child.

In the event that the Office or the Executive Director, as the case may be, is served with more than 1 decree, order, or other legal process with respect to the same moneys due or payable to any individual, such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(b) Subsection (a) shall apply only to payments made by the Office or the Executive Director under this chapter after the date on which the Office or the Executive Director (as the case may be) receives written notice of such decree, order, other legal process, or agreement, and such additional information and documentation as the Office or the Executive Director may require.

(c) For the purpose of this section—

(1) the term “judgment rendered for physically, sexually, or emotionally abusing a child” means any legal claim perfected through a final enforceable judgment, which claim is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence; and

(2) the term “child” means an individual under 18 years of age.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 575; amended Pub. L. 103-358, §2(b)(1)–(3), Oct. 14, 1994, 108 Stat. 3421.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-358, §2(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee, Member, or annuitant as defined under section 8331) based on the service of that individual shall be paid (in whole or in part) by the Office or the Executive Director (as the case may be), to another person if and to the extent that the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation expressly provide. Any payment under this subsection to a person bars recovery by any other person.”

Subsec. (b). Pub. L. 103-358, §2(b)(2), inserted “other legal process,” after “order.”

Subsec. (c). Pub. L. 103-358, §2(b)(3), added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-358 effective Oct. 14, 1994, and applicable with respect to any decree, order, or other legal process, or notice of agreement received by Office of Personnel Management or Executive Director of Federal Retirement Thrift Investment Board on or after Oct. 14, 1994, see section 3 of Pub. L. 103-358, set out as a note under section 8345 of this title.

§ 8468. Annuities and pay on reemployment

(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (h) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claim-

ing the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time¹ employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

(e) A reference in this section to an “annuity” shall not be considered to include any amount payable from a source other than the Fund.

(f)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

(A) waive the application of the preceding provisions of this section on a case-by-case

¹ So in original. Probably should be “part-time”.